

Application No.: 10/076,071

REMARKS

This paper is being filed in response to the Office Action dated June 24, 2004.

In that Office Action, the Examiner required restriction to the claims of Group I, Group II or Group III. Applicants hereby elect, without traverse, the Group II claims drawn to a method of treating an angiogenic disease or condition. The elected claims have now been rewritten as new Claims 531-573.

The election of a single sequence encompassed by the formula of Claim 453 (now Claim 531) was also required, and the Examiner states that this is not a species election. Applicants hereby elect the sequence Asp Ala His Lys [SEQ ID NO:1]. However, Applicants traverse this requirement, since Applicants are not aware of any basis in the statute or rules for such an election which is not a species election. In Claim 531, the peptides are being claimed as a Markush group. All of the claimed peptides bind metal ions (see page 14, line 25, through page 15, line 8, of the present application), so they share a common property as required for a Markush group. All of the claimed peptides require that a histidine residue be the third amino acid from the N-terminus of the peptide (see Claim 531), so the peptides also share a substantial structural feature, as required for a Markush group. In any event, if the Examiner continues to believe that one or more of the claimed peptides is an independent or distinct invention, the proper procedure is to make a species election. See MPEP § 803.02.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: Angela Dallas Sebor
Angela Dallas Sebor
Registration No. 42,460
1560 Broadway, Suite 1200
Denver, CO 80202-5141
(303) 863-9700

Date: July 26, 2004